

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DELVON A. CARTER,

Petitioner,

Case Number 5:18-cv-11495

v.

Hon. Judith E. Levy

ERICA HUSS,

United States District Judge

Respondent.

Mag. J. Patricia T. Morris

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**ORDER GRANTING PETITIONER'S MOTION TO REOPEN THE  
CASE [6], DENYING AS UNNECESSARY PETITIONER'S  
APPLICATION TO PROCEED IN FORMA PAUPERIS [8], AND  
DIRECTING RESPONDENT TO FILE A RESPONSIVE  
PLEADING**

Petitioner Delvon A. Carter filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on May 11, 2018. On May 22, 2018, this Court entered an order holding the case in abeyance pending completion of state post-conviction proceedings. ECF No. 5. Petitioner was directed to ask the Court to reopen the case within 60 days of exhausting his state court remedies. Petitioner has filed a motion to reopen the case and an amended petition. ECF Nos. 6, 7. At the same time, Petitioner filed an application to proceed *in forma pauperis*. ECF

No. 8. The Court granted Petitioner that status when he applied for it on filing his original habeas petition in May 2018. ECF No. 4.

Federal courts have the power to order that a habeas petition be reinstated upon timely request by a habeas petitioner. *Rodriguez v. Jones*, 625 F. Supp. 2d 552, 559 (E.D. Mich. 2009). Because it appears that Petitioner substantially complied with the order staying the case,

IT IS ORDERED that Petitioner's motion is granted. The Clerk's office is directed to reopen the case and reinstate it to the Court's active docket.

IT IS FURTHER ORDERED that Petitioner's second application to proceed *in forma pauperis* is denied as unnecessary.

IT IS FURTHER ORDERED that Respondent shall file a responsive pleading and the Rule 5 materials within 180 days of the date of this Order. Petitioner will have 45 days from the receipt of the answer to file a reply brief, if he so chooses. *See* Rule 5(e) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254.

IT IS SO ORDERED.

Date: April 14, 2020  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 14, 2020.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager